

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 14-55663

RONNIE GLENN, *pro se*,

Chapter 7

Debtor.

Judge Thomas J. Tucker

ORDER DENYING DEBTOR'S MOTION TO SET ASIDE DISCHARGE

On October 6, 2014, the Debtor filed a voluntary petition for relief under Chapter 7, commencing this case. On February 11, 2015, the Court entered an order granting Debtor a discharge under 11 U.S.C. § 727. On March 25, 2015, Debtor file a motion to set aside the discharge (Docket # 37, the "Motion"). The Motion indicates that Debtor seeks to set aside his discharge for the purpose of "signing" a reaffirmation agreement with HSBC Mortgage Co. On April 27, 2015, Debtor filed a Certification of Non-Response, indicating that no one had objected to the Motion.

The Court will deny Debtor's Motion, for the following reasons.

Under 11 U.S.C. § 524(c)(1), a reaffirmation agreement is not enforceable unless it "was made before the granting of the discharge under section 727." Because the Motion indicates that Debtor and HSBC Mortgage Co. did not make the reaffirmation agreement at issue before Debtor was granted a discharge on February 11, 2015, the Motion fails to demonstrate that there can be an enforceable reaffirmation agreement in this case between these parties.

Setting aside the discharge, as Debtor seeks to do, would not cure this problem. The historical fact is that the discharge was granted on February 11, 2015, and vacating the discharge would not change that historical fact and its impact under § 524(c)(1). *See In re Herrera*, 380 B.R. 446, 449-55 (Bankr. W.D. Texas 2007) and cases cited therein.

The Court further notes that the deadline to file a reaffirmation agreement is established by Fed.R.Bankr.P. 4008(a) — the deadline is “no later than 60 days after the date first set for the meeting of creditors under § 341(a) of the Code.” In this case, the deadline was January 12, 2015. Rule 4008(a) also provides that the Court may extend this deadline. But Fed.R.Bankr.P. 4004(c)(1)(J) contemplates that such a motion to extend can only be granted if the discharge has not yet been granted. *See* Fed.R.Bankr.P. 4004 advisory committee notes to 2008 Amendments (“Rule 4004(c)(1)(J) accommodates . . . an extension [of time for filing a reaffirmation agreement] by providing for a delay in the entry of discharge during the pendency of a motion to extend the time for filing a reaffirmation agreement.”). No motion to extend the deadline for filing a reaffirmation agreement was filed in this case.¹ Because the discharge was granted on February 11, 2015, it is now too late for such a motion to extend.

For these reasons, no purpose would be served by vacating the Debtor’s discharge. Accordingly,

IT IS ORDERED that the Motion (Docket # 37), is denied.

Signed on May 11, 2015

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge

¹ The motion filed by the Debtor on February 6, 2015 (Docket # 28), entitled “Motion For/To Household Mortgage Service to File for a Loan Modification,” was not such a motion. Rather, the Court construes that motion as seeking a loan modification from HSBC Mortgage. (The motion was denied for lack of prosecution, by the Court’s order filed on April 7, 2015 (Docket # 38). And even if this motion could be construed as a motion to extend the deadline for filing a reaffirmation agreement, it was untimely, since it was filed after the January 12, 2015 deadline.